

5. Also on April 5, 2016, Dakota Access filed an application for waivers of procedures and time schedules established under North Dakota Century Code sections 49-22-07.2, 49-22-08, 49-22-08.1, 49-22-13, and North Dakota Administrative Code section 69-06-01-02, requiring separate filings, separate notices, hearings, and certain time schedules on such applications.

6. On April 19, 2016, Dakota Access filed an amended application for waivers of procedures and time schedules, requesting that the Commission waive the Notice of Opportunity for Hearing under North Dakota Century Code section 49-22-07.2. Also on April 19, 2016, Dakota Access filed information supplemental to its application for an amended certificate of corridor compatibility and an amended route permit.

7. After issuance of a Notice of Filings and Opportunity for Hearing, on May 24, 2016, the Commission granted all but one of the requested reroutes; namely, the proposed reroute referred to as Reroute Location Number 50.

8. Dakota Access is continuing in its efforts to supply the Commission with information deemed sufficient for the Commission to approve Reroute Location Number 50.

9. In the course of construction which began on the Dakota Access Pipeline Project, Dakota Access has determined that the Findings of Fact, Conclusions of Law and Order entered January 20, 2016, and the Supplemental Findings of Fact, Conclusions of Law and Order dated May 24, 2016, provided in the Tree and Shrub Mitigation Specifications, attached and made a part of the orders referenced above, that “[t]he maximum width of clear cuts through windbreaks, shelterbelts and all other wooded areas is 50 feet, unless otherwise approved by the Commission.”

10. The provisions of the above referenced orders limiting clear cuts through windbreaks, shelterbelts and all other wooded areas to 50 feet is contrary to:

(a) Section 2.9 of the Application for Certificate of Corridor Compatibility and Route Permit dated December 17, 2014, which provides that the construction workspace in forested areas will be approximately 85 feet.

(b) The testimony of Monica Howard, who on direct examination offered oral testimony that the width of the corridor varies from between 85 feet to 150 feet depending on the land use at any given location.

(c) The Environmental Construction Plan, which sets forth in specific detail how construction will be completed in wooded areas.


(d) The Alignment Sheets which were filed with the Commission on or about December 17, 2014.

(e) The easements that were acquired from the surface owners whose properties contain wooded areas and which properties will be crossed by the pipeline route.

11. Reference in the Tree and Shrub Mitigation Specifications that the maximum width of clear cuts through windbreaks, shelterbelts and all other wooded areas would be limited to 50 feet is contrary to all the evidence in the record of this matter as set forth above, and the actual clearing of forested vegetation would be 85 feet consistent with the other documentation provided.

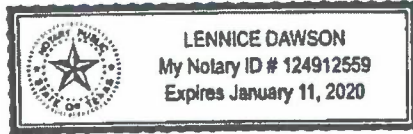
12. The increased clearing is required in the wooded areas to allow for safe pipeline construction techniques to be utilized for the Project.

FURTHER AFFIANT SAYETH NOT.


Joey Mahmoud

Subscribed and sworn to before me
this 20 day of June, 2016.


Notary Public



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